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11

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14

15 JOEL EICHENHOLTZ, Individually and On)
Behalf of All Others Similarly Situated,)

16 Plaintiff,)

17 v.)

18 VERIFONE HOLDINGS, INC., DOUGLAS)
19 G. BERGERON, and BARRY)
ZWARENSTEIN,)

20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

Case No. C 07-6140 MHP

**DEFENDANTS VERIFONE HOLDINGS,
INC., DOUGLAS G. BERGERON AND
BARRY ZWARENSTEIN'S
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED PURSUANT TO
CIVIL LOCAL RULE 3-12**

Judge: The Hon. Marilyn H. Patel
Courtroom: 15

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants VeriFone Holdings, Inc. ("VeriFone"), Douglas G. Bergeron, and Barry Zwarenstein submit this Administrative Motion to Consider Whether Cases Should be Related pursuant to Civil Local Rule 3-12.

A. RELATED CASES

1. *Eichenholtz v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6140 MHP, Class Action Complaint for Violations of Federal Securities Laws filed on December 4, 2007 and assigned to the Honorable Marilyn H. Patel.
2. *Lien v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6195 JSW, Class Action Complaint for Violation of Securities Laws filed on December 6, 2007 and assigned to the Honorable Jeffrey S. White.
3. *Vaughn, et al. v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6197 VRW, Class Action Complaint for Violation of the Federal Securities Laws filed on December 6, 2007 and assigned to the Honorable Vaughn R. Walker.
4. *Feldman, et al. v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6218 MMC, Class Action Complaint for Violations of Federal Securities Laws filed on December 7, 2007 and assigned to the Honorable Maxine M. Chesney.
5. *Cerini v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6228 SC, Class Action Complaint filed on December 10, 2007 in the Northern District of California and assigned to the Honorable Samuel Conti.
6. *Westend Capital Management LLC v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6237 MMC, Class Action Complaint for Violation of Securities Laws filed on December 10, 2007 and assigned to the Honorable Maxine M. Chesney.

1 7. *Hill v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6238 MHP, Class Action
 2 Complaint filed on December 10, 2007 and assigned to the Honorable Marilyn H.
 3 Patel.

4 8. *Offutt v. VeriFone Holdings, Inc., et al.*, Case No. C 07-6241 JSW, Class Action
 5 Complaint for Violations of Federal Securities Laws filed on December 11, 2007 and
 6 assigned to the Honorable Jeffrey S. White.

7 9. *Feitel v. VeriFone Holdings, Inc., et al.*, Case No. C 08-0118 CW, Class Action
 8 Complaint filed on January 7, 2008 and assigned to the Honorable Claudia Wilken.
 9

10 **B. RELATIONSHIP OF THE ACTIONS**

11 Cases should be related where they concern substantially the same parties, property,
 12 transaction or event and it is likely that there will be an unduly burdensome duplication of labor and
 13 expense or conflicting results if the cases are conducted before different Judges. Civil Local Rule 3-12.
 14 Each of these factors is met here.
 15

16 These nine above-referenced actions concern substantially the same parties and events
 17 and there will be an unduly burdensome duplication of effort and unnecessary consumption of judicial
 18 resources if the cases are conducted before different judges. All nine complaints name VeriFone,
 19 Douglas G. Bergeron, and Barry Zwarenstein as defendants and concern the same alleged intentional
 20 misrepresentations and purportedly misleading financial statements made between August 2006 and
 21 November 2007. All of the cases were filed in the wake of, and arise from, VeriFone's December 3,
 22 2007 announcement that it would be restating certain of its financial statements for fiscal year 2007 –
 23 eight of the complaints were filed within a week of that announcement. To have six different judges
 24 direct the same inquiries and conduct the same analyses regarding the facts and law surrounding the
 25 same alleged misconduct and events would be inefficient and would increase the possibility of
 26 inconsistent rulings and outcomes.
 27
 28

1 **C. CONCLUSION**

2 The actions referred to above satisfy the criteria of Civil Local Rule 3-12. Defendants
3 respectfully request that the cases be deemed related and that they be assigned to the Honorable Marilyn
4 H. Patel, the Judge assigned to the first-filed action, *Eichenholtz v. VeriFone Holdings, Inc., et al.*, Case
5 No. C 07-6140 MHP.

6 Date: January 25, 2008

7 /s/

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